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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/134,981	08/17/98	GOLDMAN	D H-409

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TM01/03167

EXAMINER

VO, T

ART UNIT

PAPER NUMBER

2181

DATE MAILED:

03/16/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/134,981

Applicant(s)

Goldman

Examiner

Tim Vo

Group Art Unit

2181

☒ Responsive to communication(s) filed on Jan 2, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

*Response to Amendment*

1. Applicant's arguments filed on January 2, 2000 have been fully considered but they are not deemed to be persuasive.
2. The applicant's argument on page 4. **First**, that the embroidery design of Futamura does not process color images. **Second**, on page 5, the applicant argued that Futamura does not teach type of stitching such as fill stitch, determining appropriate variable angle zig-zag stitching, and handling cases where multiple pattern lines intersect (i.e. singular regions within the pattern). **Third**, on page 5, the applicant argued that Futamura does not teach 24-bit per pixel file for storing the image data file.
3. In response to the applicant argument's above: **First**, the applicant admitted on page 4 that the prior art Futamura teaches in the same field of the invention that is "automatically generating an embroidery design". Futamura teaches monochrome embroidery design image. The monochrome images displays black and white colors. Black and white are considered color types. The applicant claimed "...the image data file comprising a plurality of pixel, each pixel comprising a bitmap represent a color. Col 5 lines 10-12 as cited in the previous office action, Futamura teaches each pixel is represented by one bit of data having a value of 0 or 1 for white and black. Therefore, this citation meets the claim limitations.  
**Second**, examiner found no where in claims indicated "fill stitch, and handling cases where multiple pattern lines intersect (i.e. singular regions within the pattern)". Therefore, this argument is moot. Claim 4, the applicant claimed that the "stitch angle determination". Col 6 lines 41-61 teaches such limitations as cited in the previous office action. In this citation, Futamura teaches determination of stitch

type such as 1.2 mm width zig-zag stitching when N is less than 5 but greater than or equal to 3, and 1.8 mm width zig-zag stitching when N is equal or greater than 5 (col 6 lines 52-53). Furthermore, in col 7 lines steps 6, Futamura teaches vectors to be converted to embroidery data. **Third**, nowhere in the claims indicated 24-bit per pixel file for storing the image data file. Therefore, this argument is moot.

Reminder, the applicant's arguments that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies above "Second and Third" are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Amended claim 1 is rejected as applied in rejecting claims 6-7 for having the same limitations.

### **Part III DETAILED ACTION**

#### ***Notice to Applicant(s)***

4. This application has been examined. Claims 1-20 are pending.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Futamura patent number 5,740,056.

As for claims 1, 12 and 20, Futamura teaches a system for automatically producing an embroidery design (see col 2 lines 21-30 of the specification), the system comprising:

a) means for inputting an embroidery pattern into an image data file (see col 1 lines 17-25 of the specification), the image data file comprising a plurality of pixels (see col 5 lines 1-25 of the specification), each pixel comprising a bitmap representing a color (see col 2 lines 20-30 of the specification);

b) processing means operatively connected to said inputting means for storing said image data file (see col 5 lines 19-24 of the specification);

c) an embroidery data generating mechanism operatively connected to said processing means for generating complex embroidery pattern directly from a scan, color image (see col 5 lines 1-25 and col 2 lines 21-30 of the specification).

As for claims 2 and 16, Futamura teaches the embroidery data generating mechanism comprises:

1) segmenting means for characterizing each pixel with the image data file into an object (see col 5 lines 10-30 of the specification);

2) means for classifying each of said objects as a thin object or thick object (see col 3 lines 40-48 of the specification);

3) means for locating and interpreting a set of regular and singular regions for embroidery data point generation (see col 5 lines 19-24 of the specification);

4) path generation means for computing an optimum sew order for at least one extracted column (see col 5 lines 51-67 of the specification);

5) embroidery output means for generating an embroidery output file (see col 5 lines 1-3 of the specification).

As for claims 3 and 18, Futamura teaches line-fitting means for line-fitting each object (see col 5 lines 41-50 of the specification), wherein an object comprises an outer contour, an predetermined number of inner contours, and a skeleton contour, said line-fitting means comprising a gallusneurath triangular filter (see col 5 lines 41-58 of the specification).

As for claims 4 and 13, Futamura teaches stitch angle determination means for determining a stitch angle that produce a minimal plurality of fragments (see col 6 lines 41-67 of the specification).

As for claims 5 and 14 and 19, Futamura teaches generate path means for determining an optimal order for the plurality of fragments to be sewn (see col 7 lines 5-16 of the specification).

As for claims 6, Futamura teaches labeling means for labeling a plurality of points on the skeleton and edge contours (see fig 5 and col 5 lines 25-50 of the specification).

As for claims 7 and 15, Futamura teaches merging means for merging series of points from the plurality of points on the skeleton contour (see fig 7 and col 6 lines 38-41 of the specification).

As for claim 8, Futamura teaches coding means for evaluating a plurality of singular regions (see col 8 lines 42-45 of the specification).

As for claim 9, Futamura teaches smooth means for evaluating sequence of stroke normals (see col 5 lines 51-58 of the specification).

As for claim 10, Futamura teaches wherein means for inputting comprises a scanner (see col 5 lines 1-12 of the specification).

As for claims 11 and 17, Futamura teaches wherein said object comprises a plurality of connected or contiguous pixels having uniform color (see col 5 lines 10-30 of the specification).

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Tim Vo, whose telephone number is (703) 308-5862. The examiner can normally be reached on Monday-Friday from 7:00AM- 3:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Ayaz Sheikh*, can be reached on (703) 305-9648 or via e-mail addressed to [*ayaz.sheikh@uspto.gov*]. The fax number for this Group is (703) 308-5358.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [*tim.vo@uspto.gov*].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

*Tim Vo*  
*Mar 12, 2001*

  
ROBERT BEAUSOLEIL  
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